IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 2401 of 2007()

CP.106/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOTTARAKKARA

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CRIME NO.100/2000 OF KOTTARAKKARA EXCISE RANGE

PETITIONER/ACCUSED:

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1. RAJAMMA D/O.KALLYANI,
THOYITHALA CHARUVILA VEEDU,
KUTTARA MURI,
KULAKKADA VILLAGE, KOTTARAKKARA

2. SUDHAMANI, D/O.RAJAMMA,
THOYITHALA CHARUVILA VEEDU,
KUTTARA MURI,
KULAKKADA VILLAGE, KOTTARAKKARA

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENTS/COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY ITS
DIRECTOR OF PUBLIC PROSECUTION
HIGH COURT OF KERALA, ERNAKULAM

2. THE EXCISE INSPECTOR,
EXCISE RANGE OFFICE,
KOTTARAKKARA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2401 of 2007

Dated this the 26th day of July 2007

O R D E R

The petitioners face indictment in a prosecution under the provisions of the Kerala Abkari Act. Crime was registered. Investigation was conducted. Final report was filed. Cognizance was taken. Committal proceedings was registered. The petitioners have not appeared before the learned Magistrate so far. Consequently, they find coercive processes issued by the learned Magistrate chasing them.

2. The learned counsel for the petitioner submits that the petitioners are absolutely innocent. Their absence earlier was not wilful; but was due to reasons beyond their control. The petitioners now want to surrender before the learned Magistrate and apply for bail. They are willing to co-operate with the court for the expeditious disposal of the case against them. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate.

4. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007